Testimony of Jay Davidson,
April 9, 2014

Senator Gardner Field Hearing

Reducing the Burden of Federal Regulations on Community Banks and Small Business

Re: KPMG Report on Banking in Colorado

Thank you for the opportunity to speak to you about a topic with which I am very familiar. I started First American State Bank as a de novo bank in 1995; we grew the bank to $275 Million in assets in 20 years and serve the commercial banking needs of our community in Greenwood Village, Centennial and Cherry Hills.

I would add my support to the fine study that KPMG created (I believe Adam Fiedor or Wes Brown will also testify) outlining the declining role of community banking in small businesses and with Main Street. The studies' conclusion describes the net negative effect upon our economy, jobs, business start ups and the general well-being of our region.

Community banks fill a role that the much larger banks cannot or chose not to fill: we community banks have the unique ability and flexibility to understand the needs of small business and start ups and provide capital in the form of loans so they can expand. This role is extremely important in job creation, and thereby tax revenue. Let me explain. In a September 2012 white paper, the SBA Office of Advocacy makes the point that 60% to 65% of all new jobs are created by start up and small businesses. This is the very area that Community Banks serve.

You will note two phenomena: banks have not been lending very much into this sector and small business formation, for the first time in decades, declined significantly. In fact, small business failures now exceed small business start-ups. In a 1 April 2014 article in the New York Times: "The forces driving this trend include the increasing regulation of small businesses, corporate consolidation, more occupational licensing requirement..."

Is it any wonder the Labor Participation Rate sits at a dismal 62.4% or that GDP growth remains an anemic 2.4% for the past several years? The dual solutions for job creation are reduce the burden of federal regulations on business and reduction of the regulatory burden on community banks so they might provide much needed liquidity to small business.

Jay Davidson
Chairman, CEO, Founder
First American State Bank
First American Bancorp

Examples of regulatory burden:

Commercial Real Estate (CRE) Loans as a % of Capital: in 2006, federal banking regulators introduced guidance for CRE 1 and CRE 2. The ratios are commercial real estate lending as a percent of capital. In 2008, federal banking regulators, with little warning and no time to implement, started enforcing limits for CRE 1 and 2 lending. Commercial banks, in an effort to comply, stopped lending to small businesses and created the Second Liquidly Crisis of 2008. These lending limits were enforced universally and across the nation with no consideration that CRE lending in Denver Colorado is substantially different from that in Detroit. Well, guess who suffers when we stop lending to this segment, it is the very businesses that create the majority of new jobs: small business.

Capital Ratios: Federal banking regulators indicated they may not adhere to Basil III capital guidelines. Instead, they have stated they will apply premiums to the capital ratios based upon their subjective judgment of each bank. In other words, bankers will not know the proper level of capital and will be hesitant to lend because additional loans decrease capital ratios. Banks can work best and lend most efficiently if there are set standards, not arbitrary and ever-changing requirements, for capital.

Trust Preferred Securities (TPS): federal banking regulators are not willing to allow some banks to make regular payments on their TPS obligations. This creates a dangerous environment for community banks that gives rise to the potential for foreclosure by the TPS Trustees. When banks are profitable and above “well” capitalized levels, they should be allowed to make capital debt payments out of current earning.